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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/833,593

04/13/2001

Martin Philip Usher

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11/16/2005

STEPTOE & JOHNSON LLP  
1330 CONNECTICUT AVENUE, N.W.  
WASHINGTON, DC 20036

EXAMINER

MILLER, BRANDON J

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/833,593	<b>Applicant(s)</b> USHER ET AL.	
	<b>Examiner</b> Brandon J. Miller	<b>Art Unit</b> 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 13-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-24 and 26-30 is/are allowed.
- 6) ☒ Claim(s) 31-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 8/29/2005 has been entered.

#### ***Allowable Subject Matter***

Claims 13, 19, 26, and 29 contain allowable subject matter and claims 14-18, 20-24, 27-28, and 30 contain allowable subject matter based on their dependence of independent claims 13, 19, 26, and 29 respectively.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of Kraft.

Regarding claim 31 Warburton teaches a method for forwarding incoming telephone communications (see paragraph [0038]). Warburton teaches diverting an incoming call based on

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divert instructions associated with a telephone number (see paragraph [0038]). Warburton does not specifically teach considering a state of a telephone associated with a telephone number as busy, regardless of an actual state of the telephone. Kraft teaches considering the state of a telephone associated with a telephone number and during the considering diverting all incoming calls (see col. 3, lines 1-10 & 38-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include considering a state of a telephone associated with a telephone number as busy, regardless of an actual state of the telephone because when diverting all incoming calls of a telephone associated with a telephone number, the actual state of that telephone is not considered, which is often the same treatment as considering the state of a telephone as busy regardless of its actual state and it would allow for an improved function setting mode of a portable telephone.

Regarding claim 32 Kraft teaches receiving a request to divert incoming calls for a telephone number; and the considering is in response to the receiving (see col. 1, lines 38-44 and col. 3, lines 38-45).

Regarding claim 33 Warburton teaches a request identifies one of a location, a communication system, or a telephone number that incoming calls are to be directed to (see paragraph [0038]).

Regarding claim 34 Warburton and Kraft teach a device as recited in claim 32 except for associating in response to a request, a primary diversion instruction with the telephone number. Kraft does teach associating in response to a request, a first diversion instruction with a telephone (see col. 2, lines 60-65, col. 3, lines 38-45, and TABLE 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device

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adapt to include associating in response to a request, a primary diversion instruction with the telephone number because this would allow for an improved function setting mode of a portable telephone.

Regarding claim 35 Warburton and Kraft teach a device as recited in claim 34 except for modifying any existing divert on busy instructions associated with the telephone number to accommodate the primary diversion instruction. Kraft does teach selecting one of a plurality of possible phone settings associated with the telephone to accommodate the first diversion instruction (see col. 2, lines 60-65, col. 3, lines 38-45, and TABLE 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include modifying any existing divert on busy instructions associated with the telephone number to accommodate the primary diversion instruction because this would allow for an improved function setting mode of a portable telephone.

Regarding claim 36 Warburton and Kraft teach a device as recited in claim 34 except for the primary divert instruction supercedes any existing divert on busy instruction. Kraft does teach a first divert instruction that comes before the selection of any divert phone setting (see col. 2, lines 60-65, col. 3, lines 38-45, and TABLE 1). It would have been obvious to one of obvious skill in the art at the time the invention was made to make the device adapt to include the primary divert instruction supercedes any existing divert on busy instruction because this would allow for an improved function setting mode of a portable telephone.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Lanzerotti U.S Patent No. 6,324,398 discloses a wireless telecommunications system having airborne base station.

Capone et al. U.S. Patent No. 6,393,281 discloses a seamless hand-off for air-to-ground systems.

Gilhousen U.S Patent No. 5,559,865 discloses an airborne radiotelephone communications system.

Corbefin et al. U.S. Patent No. 6,269,243 discloses device for allowing the use in an aircraft of radiocommunication means.

Malik U.S Patent No. 6,252,954 discloses a system and method for delaying the ringing of a line.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J. Miller whose telephone number is 571-272-7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to be "B. Hoffmann", written in a cursive style.

October 30, 2005

A handwritten signature in black ink, appearing to be "W. Trost", written in a cursive style.

WILLIAM TROST  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600